

**JUNE 21, 2007**

**NORTH EMBARCADERO VISIONARY PLAN PUBLIC ART COMMITTEE HANDBOOK**

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## **A. INTRODUCTION**

This handbook is intended to provide an overview of the responsibilities associated with the North Embarcadero Visionary Plan Public Art Committee [NEVP PAC] (formerly the North Embarcadero Alliance Public Art Steering Committee), and the processes associated with the selection of artists and artworks for the *North Embarcadero Visionary Plan (NEVP)* area. Current and potential NEVP PAC members should use this handbook to become familiar with the guidelines that govern the NEVP PAC and its processes.

## **B. BACKGROUND**

In 1997, an alliance of five agencies (Centre City Development Corporation [CCDC], the City of San Diego [City], the County of San Diego [County], the San Diego Unified Port District [Port], and the United States Navy) joined forces to establish a vision for the redevelopment of San Diego's northern waterfront. In 2003, the City of San Diego's Redevelopment Agency (acting through CCDC) and the Port formed a Joint Powers Authority (JPA) which embarked on an effort with consultant firm Ehrenkrantz, Eckstut & Kuhn Architects (EEK) to design a redevelopment plan, the *NEVP*, for the property spanning a one mile long and ¼ of a mile wide area bounded by Market Street on the south, Laurel Street to the north, the railroad right-of-way to the east and the San Diego Bulkhead line to the west.

Throughout this design process, EEK retained the consultant services of Fine Art Services, Inc. to select a lead artist to work on the design team and create a plan for art opportunities within the planned improvements. The North Embarcadero Alliance Public Art Steering Committee, composed of three members from each of the JPA agencies (the City, CCDC and the Port), was formed to advise Fine Arts Services, Inc. on the selection of an artist and on the goals for the *NEVP Public Art Plan*. The North Embarcadero Alliance Public Art Steering Committee drafted the *North Embarcadero Visionary Plan Schematic Design Public Art Process* and adopted it on May 30, 2002. (See Appendix.) Based on these guidelines, Ned Kahn was selected as the lead artist to work on the design team. He developed a public art plan, which was accepted, with

conditions, by the NEVP PAC on March 17, 2005. The JPA Board voted to approve the *NEVP* Schematic Design, including the public art plan, on April 28, 2005. The NEVP PAC subsequently resolved the outstanding conditions relating to the public art plan and released the final recommended version on June 9, 2005. This final version was approved by the JPA Board on June 21, 2007 as the Appendix to the Public Art Committee Handbook.

The infrastructure improvements, including public art elements, associated with the *NEVP* are anticipated to be completed in phases.

### **C. ROLE OF THE NORTH EMBARCADERO VISIONARY PLAN PUBLIC ART COMMITTEE**

For the duration of the execution of the *NEVP*, the NEVP PAC is responsible for making recommendations to the JPA Board about the selection of artists and artworks and for advising the JPA Board on policies and procedures that support the *NEVP Public Art Plan* throughout the implementation of each phase of the NEVP. The NEVP PAC is also responsible for advising the private developers of other sites within the area on policies and procedures that support the *NEVP Public Art Plan*. The NEVP PAC shall be supported by arts administration staff from each of the JPA agencies. NEVP PAC members may participate in the artist and artwork selection processes or determine the membership of artist selection panels.

The NEVP PAC shall:

- Recommend policies and provide general oversight for the *NEVP Public Art Plan*;
- Communicate with Ned Kahn, as necessary;
- Recommend guidelines, policies and procedures for the selection, implementation, and conservation of public art on the North Embarcadero;
- Identify specific public art opportunities based on the guidelines set forth in the *NEVP Public Art Plan*;
- Support transparency in the creation and execution of public art processes;

- Review and recommend to the JPA Board all public art and/or artist selections for the North Embarcadero area;
- Make recommendations regarding the care and maintenance of the public art collection to appropriate parties or site agencies;
- Recommend a pool of potential artist selection panel members;
- Participate in artist selection panels;
- Determine methods for artist/artwork selection;
- Ensure community outreach and citizen participation in the public art process;
- Periodically review and recommend changes to the *NEVP Public Art Plan* guidelines, policies and procedures; and
- Be comprised of an equal number of representatives for each JPA agency, no more than nine and no less than three voting members, primarily persons qualified in the visual art and/or design professions.

#### **D. ROLE OF STAFF**

The NEVP PAC shall be administered by staff members from each of the three JPA agencies. In the case of the Port, Public Art Department staff shall administer the NEVP PAC. In the case of the City, Commission for Arts and Culture staff shall administer the NEVP PAC. In the case of CCDC, appropriate planning staff shall administer the NEVP PAC.

Staff shall:

- Recommend potential NEVP PAC members for appointment;
- Facilitate communication between each JPA agency;
- Coordinate to balance workloads and responsibilities between each JPA agency staff administrator;
- Facilitate the communication between the artist(s) and the NEVP PAC;
- Coordinate and administer NEVP PAC meetings, including recording the minutes;

- Implement the overall work objectives of the NEVP PAC, such as project administration, coordination with artists, scheduling meetings, strategic planning, and community outreach;
- Monitor the overall implementation of the *NEVP Public Art Plan*;
- Recommend methods for artist/artwork selection to the NEVP PAC;
- Facilitate all artist selection panels for the NEVP PAC;
- Oversee maintenance surveys as appropriate for the North Embarcadero public art collection;
- Review and advance the recommendations of the NEVP PAC;
- Oversee all artists' contracts in association with the *NEVP Public Art Plan*; and
- Present recommendations to the JPA Board.

## **E. ROLE OF THE JOINT POWERS AUTHORITY BOARD**

The JPA Board is responsible for ensuring the implementation of the *NEVP* and the *NEVP Public Art Plan* by overseeing and approving the recommendations of the NEVP PAC.

The JPA Board shall:

- Approve the policies and procedures set forth by the *NEVP PAC Handbook*; and
- Approve recommendations from the NEVP PAC for all public art and/or artist selections for the North Embarcadero area.

## **F. SELECTION PROCESS AND CRITERIA FOR MEMBERSHIP**

NEVP PAC members are appointed by appropriate approval bodies within each JPA agency. In the case of the Port, the Public Art Committee and Board of Port Commissioners shall appoint members to the NEVP PAC. In the case of the City, the Public Art Committee and the Commission for Arts and Culture shall appoint members to the NEVP PAC. In the case of CCDC, the Board shall appoint members to the NEVP PAC. NEVP PAC appointees shall be qualified experts in the field of art and/or design and may include:

- Artists;

- Design professionals such as architects, landscape architects, engineers, urban designers, industrial designers, land planners, and graphic designers;
- Arts professionals such as arts administrators, curators and patrons; and
- Citizens with visual arts and/or design expertise or interest.

The criteria used in making appointments for NEVP PAC membership include:

- Professional qualifications and experience primarily in the visual art and/or design professions;
- In-depth knowledge of the San Diego arts and culture community and the downtown area; and
- Communication and decision-making skills;
- Diversity reflective of the San Diego community; and
- The ability to work well in a group.

## **G. TERMS AND MEMBERSHIP**

The NEVP PAC consists of no more than nine and no less than three voting members. An equal number of members from each JPA agency must be represented on the NEVP PAC. Voting members serve two-year staggered terms for a maximum of four years. A member serves until a successor is duly appointed and confirmed. An interval of two years must pass before an individual can be reappointed to the NEVP PAC. A member of the NEVP PAC will serve as Chair and will be elected by members of the NEVP PAC.

## **H. CONFLICT OF INTEREST GUIDELINES**

In response to the *California Political Reform Act* and the ethics policies adhered to by each of the JPA agencies, NEVP PAC members are required to determine when they should disqualify themselves from participating in discussions and decision-making processes.

Legal Conflicts: A “legal” conflict of interest exists if a NEVP PAC member, a NEVP PAC member’s business partner, or a member of a NEVP PAC member’s immediate family has a financial interest in one of the projects that appears before the NEVP PAC

for review. If a legal conflict of interest is determined to exist, the NEVP PAC member must disclose the nature of the conflict prior to the start of discussions about the project and should disqualify him/herself from participating in discussions, making decisions, or voting on any matter affecting the project. The NEVP PAC member should leave the room during discussions and voting on matters affecting the project.

Apparent Conflicts: Although there may not be a financial interest in the project and therefore no “legal” conflict of interest, sometimes a NEVP PAC member may find that he or she has such strong feelings, either positively or negatively, about a particular project, person involved with the project, or organization involved with the project that the NEVP PAC member cannot be fair in the discussions and recommendations concerning it. This is what is known as an “apparent” conflict of interest. If an apparent conflict of interest is determined to exist, the NEVP PAC member must disclose the nature of the conflict prior to the start of discussions about the project and should disqualify him/herself from participating in discussions, making decisions, or voting on any matter affecting the project. The NEVP PAC member should leave the room during discussions and voting on matters affecting the project.

Declaring a legal or apparent conflict of interest does not mean that a NEVP PAC member cannot serve. It simply means that the NEVP PAC member may not discuss or vote on those projects for which the conflict exists. A NEVP PAC member who has a potential legal or apparent conflict of interest shall disclose the potential conflict of interest to staff before the NEVP PAC meetings begin, when possible.

Artist Members of the PAC: Voting memberships may be given to practicing artists, who otherwise meet the criteria for serving on the NEVP PAC. Artists serving on the NEVP PAC are not eligible to apply for public art project competitions over which the NEVP PAC has approval authority or administrative responsibility, and may not engage in contracts related to *NEVP Public Art Plan*.

## **I. QUORUM**

A group of five people including at least one representative from each of the three JPA agencies constitutes a quorum authorized to transact business. Committee members are not entitled to grant proxies.

## **J. MEETINGS**

Meetings of the NEVP PAC shall be scheduled on an as-needed basis and be held at a time and location to be determined in consultation with the NEVP PAC members and staff administrators. Meetings are open to the public. NEVP PAC members and staff administrators shall report to the JPA Board on an as-needed basis.

Public Notice: Notice of all meetings shall be publicly advertised in accessible locations at least 72 hours in advance.

Attendance: Each NEVP PAC member is expected to communicate with staff and/or the NEVP PAC chair when the member is unable to attend a meeting. Absence from three meetings within a calendar year may result in a recommendation to forfeit the member's position for cause.

## **K. SUB-COMMITTEES**

The NEVP PAC Chair may appoint sub-committees for tenure and purposes as the NEVP PAC may determine from time to time. Examples of possible sub-committees include but are not limited to:

- Strategic Planning
- Artwork Maintenance
- Public Affairs, Outreach and Education

Sub-committees may be comprised of no less than three and no greater than six NEVP PAC members. An equal number of representatives from each of the three JPA agencies shall be assigned to each subcommittee. Reports from all subcommittees shall be made at regular NEVP PAC meetings and incorporated into the minutes of the proceedings.

## **L. TECHNICAL ADVISORS**



As part of the public art process, the NEVP PAC may consult with technical experts in order to determine the feasibility, safety, accessibility, and longevity of a proposed artwork. These technical experts may be staff members from any of the three JPA agencies and in their roles as advisors they do not vote on Artist Selection Panels.

Technical advisors may be experts in the following fields, including but not limited to:

- Building operations and maintenance
- Engineering
- Landscaping and landscape maintenance
- Fabrication and materials
- Installation
- Storage
- Transportation and shipping
- Land use
- Environmental mitigation
- Stormwater management
- Accessibility
- Law
- Risk management
- Architecture
- Planning

## **M. POLICIES, ORDINANCES, GUIDELINES AND PLANS GOVERNING THE PUBLIC ART PROCESS**

In addition to the *NEVP*, the NEVP PAC will consult the City of San Diego's *Public Art Master Plan* and its accompanying policies and guidelines, the Port's *Public Art Resource Guide* and its accompanying policies and guidelines, and CCDC's *Downtown Community Plan, Chapter 10, Arts & Culture* and its accompanying policies and guidelines to inform the development of policies and procedures related to the implementation of the *NEVP Public Art Plan*. Other resources, such as the City's *General Plan* and the Port's *Master Plan* may be consulted as well.

## **N. GOALS OF THE ARTIST/ARTWORK SELECTION PROCESS**

The overarching goal of the artist/artwork selection process is to acquire artworks of the highest quality. Selecting artists whose skills, experience, styles, commitments to collaboration, and community facilitation skills match the needs of each project is critical to the project's success.

Specifically, the goals of the selection process are to:

- Encourage the highest level of creative engagement and vibrant thinking with regard to individual works or those in tandem with public or private architectural projects;
- Select an artist or artists whose existing public artworks or past collaborative efforts have maintained a high level of quality and integrity;
- Implement the goals of the overall project through an appropriate artist selection;
- Further the mission and goals of the *NEVP Public Art Plan*;
- Identify the optimal approach to public art that is suitable to the demands of the particular context/site/project;
- Select an artist or artists who will best respond to the distinctive characteristics of the site and the community it serves;
- Select an artist or artists who can work successfully as members of an overall project design team; and
- Ensure that the selection process represents and considers the interests of all parties concerned, including the public, the arts community and the agencies involved.

## **O. ARTIST/ARTWORK SELECTION PANELS**

Artist/Artwork Selection Panels [ASPs] are composed and approved by the NEVP PAC. ASPs may be composed solely of NEVP PAC members, other volunteers who have been selected by the NEVP PAC, or a combination thereof. Each ASP must feature an equal number of representatives for each JPA agency. An ASP should be composed of no more than nine members and no less than three. ASPs are responsible for reviewing and ranking artists' applications, interviewing artists, recommending artists for

involvement in the projects identified by the NEVP PAC, and/or recommending the selection of artworks. The composition of ASPs should feature a balance between stakeholders and visual arts/design professionals. Therefore, ASPs may be composed of experienced visual arts professionals and/or design professionals, community members, donors, and representatives for private developers, when appropriate. Individual ASPs are composed with the specific characteristics and requirements of each project in mind. An ASP convenes only as long as the selection process for one project continues. ASPs do not convene to select artists for multiple projects; a separate ASP is organized for each project, though individual ASP members may serve on more than one ASP.

## **P. METHODS OF SELECTING ARTISTS AND/OR ARTWORKS**

There are several methods for selecting artists and/or artworks: Open Competition, Limited or Invitational Competition, Direct Selection/Direct Purchase, Mixed Process and Pre-Qualified Artists List. The method of selecting artists/artworks for individual projects shall be determined by the NEVP PAC in consultation with staff and in accordance with the *NEVP Public Art Plan*. Any of the following methods may be used, depending upon the requirements of a particular project which may include but are not limited to: budget, timeline, geographic location, and scope of work. Artists will be paid stipends for the development of proposals in all cases where proposals are requested.

Open Competition: An open competition is a call for artists for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit credentials, subject to any limitations established by the NEVP PAC. Calls for entries for open competitions will be sufficiently detailed to permit artists to determine whether their work is appropriate for the project under consideration.

Limited or Invitational Competition: A limited number of artists shall be invited by the NEVP PAC or ASP to submit credentials for a specific project. Artists shall be invited, based on their past work and demonstrated ability to successfully respond to the conditions posed by the particular project [i.e., water features, light works, paintings,

sound works, landscape works, design team efforts, etc.], or based on other non-aesthetic *NEVP Public Art Plan* goals [i.e., artists who reside in a particular community or neighborhood where a project is occurring, local artists or regional artists, etc.].

Direct Selection/Direct Purchase: At times the NEVP PAC may elect to recommend a direct selection in which it selects a specific artist for a particular project. At other times the NEVP PAC may elect to recommend a direct purchase in which it purchases a specific artwork for a particular project. Such elections may occur for any reason, but will generally occur when circumstances surrounding the project make either an open or limited competition unfeasible [for example; project timeline, community or social considerations, client demand, etc.].

Mixed Process: A mixed process may include any combination of the above approaches.

Pre-Qualified Artists List: The NEVP PAC may use an ASP to create a pool of pre-qualified artists who can be utilized for projects where a separate call to artists may not be warranted. The pre-qualified artists list should be reviewed every two years or just prior to a selection process by the NEVP PAC. The pre-qualified artists list may serve as a resource to private development within the boundaries of the *NEVP*.

## **Q. CRITERIA FOR THE SELECTION OF ARTISTS AND/OR ARTWORKS**

ASPs shall use the following criteria and ask the following questions to select artists and/or artworks:

- **Qualifications:** Artists shall be selected based on their qualifications as demonstrated by past work and the appropriateness of their concepts to the particular project.
- **Quality:** Of highest priority are the design capabilities of the artist and the inherent quality of the artwork.
- **Media:** All forms of visual arts shall be considered, subject to any requirements set forth by the project prospectus.

- **Style:** Artists whose artworks are representative of all schools, styles and tastes shall be considered. Will the proposed artwork enhance the variety of styles, media, size and type of artworks in the North Embarcadero area?
- **Appropriateness to Project:** Is the proposed artwork part of the overall goals of the project? Is it consistent with the *NEVP Public Art Plan*?
- **Appropriateness to Site:** Artwork designs shall be appropriate in scale, material, form and content to the immediate social and physical environments with which they relate. Is the proposed artwork appropriately integrated into the site? Will the work be publicly visible?
- **Permanence:** Consideration shall be given to structural and surface integrity, permanence and protection of the proposed artwork against theft, vandalism, weathering, excessive maintenance and repair costs. Are the short term and long term maintenance and conservation requirements defined and acceptable? Can the artwork be safely engineered for the active marine environment?
- **Elements of Design:** Consideration shall be given to the fact that public art is a genre that is created in a public context and that must be judged by standards that include factors in addition to the aesthetic. Public art may also serve to establish focal points; terminate areas; modify, enhance or define specific spaces; establish identity; or address specific issues of urban design.
- **Community Values:** While free artistic expression shall be encouraged, consideration must be given to the appropriateness of artworks in the context of local community and social values. Is there demonstrated community support for the artwork?
- **Public Liability:** Safety conditions or factors that may bear on public liability must be considered in selecting an artist or artwork. Will the work be publicly accessible?
- **Diversity:** The NEVP PAC shall strive for diversity of style, scale, media and artists, including ethnicity and gender of artists selected.
- **Communication:** The ability of the artist to effectively communicate with a variety of groups, including other design professionals, public officials and community members, should be taken into consideration.

## **R. PUBLIC ART PROCESS**

The public art process, as administered by the NEVP PAC in accordance with the *NEVP Public Art Plan*, shall typically adhere to the following steps:

1. Determination of a budget for each public art project or public art initiative. The process for determining art budgets is formed by the agency/agencies which is/are the source of funding. Not only does the source of funding and the art budget need to be established in this step, but the availability of the funding must be confirmed as well.
2. Determination of project details such as site, timeline, programmatic issues, etc.
3. Determination of which artist selection process to utilize.
4. Creation of a pool of artists.
5. Creation of an ASP.
6. Selection of an artist or artist team through shortlisting and/or interviews. (When the creation of proposals is required as part of the selection process, stipends will be paid to artists for the development of proposals.)
7. Execution of contract(s).
8. Meetings between the artist(s), community members, and stakeholders to gather information and input.
9. Development of a schematic design.
10. Presentation of the schematic design to the NEVP PAC for critical feedback.
11. Presentation of the schematic design to community members and stakeholders for feedback. Feasibility, maintenance, accessibility, public safety should be addressed by the stakeholders in this step.
12. Development of a final design.
13. NEVP PAC reviews final design and votes on whether the artist has competently fulfilled his/her contractual obligations and met the goals set forth by the public art process.

14. A recommendation to approve and fund is forwarded by the NEVP PAC to the JPA Board.
15. Artwork fabrication occurs.
16. Artwork installation occurs.
17. Artwork dedication event occurs.
18. Artwork documentation is submitted.
19. Maintenance report is submitted.

## **S. DONATIONS OF ARTWORK**

The NEVP PAC will consult the donations policies of both the City and the Port and recommend a review process equal in rigor to the public art process for commissioned artworks should one of the JPA agencies receive notice of an intended donation of artwork for a site within the boundaries of the planned North Embarcadero improvements.

## **T. OWNERSHIP OF ARTWORK**

Artworks installed within the Port's jurisdiction will become the property of the Port. Artworks installed on leased property will become fixed assets.

## **U. MAINTENANCE OF ARTWORK**

Maintenance of the artworks is the responsibility of the agency which owns the land on which the artworks are placed unless other policies are set forth. Artworks placed on leased property will be maintained by the lessee.

## **V. DEFINITIONS**

**Artist** – Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, public performances, past public commissions, exhibition record, publications, and production of artwork.

**Artwork** – An artwork may be in any style, expression, genre or media, provided that it is designed by an artist as defined herein. Artworks may be stand-alone, functional or integrated into the architecture or landscaping and should encompass the broadest range of expression, media and materials. Artwork as defined herein may be permanent, fixed, or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.

Artworks must be specified or designed by an artist and may include but are not limited to:

Sculpture: may be made of any material or combination of materials; may be free standing, wall-supported, suspended, mounted, installed, kinetic, electronic or mechanical.

Murals or paintings: may be made of any material or variety of materials; may be made with traditional or non-traditional materials and means.

Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, books, calligraphy, found objects, any combination of media, including audio, video, film, CD-ROM, DVD, holographic or computer generated technologies, or new genres currently known or which may come to be known.

Artworks may be permanent, temporary, fixed or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.

The following, unless specified or designed by an artist, are not considered artworks:

Reproductions, by mechanical or other means, of original artworks. However, limited editions controlled by the artist or original prints, cast sculpture, or photographs, may be considered artworks.

Decorative, ornamental or functional elements.



Elements generally considered being components of architecture or landscape design such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc.

Art objects which are mass produced, ordered from a catalog, or of standard design (such as benches or fountains); wayfinding or other functional elements such as graphics, signage, advertising or maps.

This handbook, its Appendix and other information about the *North Embarcadero Visionary Plan* may be accessed on the Internet at the following addresses:

**[www.portofsandiego.org](http://www.portofsandiego.org)**

**[www.sandiego.gov/arts-culture/publicart.shtml](http://www.sandiego.gov/arts-culture/publicart.shtml)**